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Re: Report to Congress Regarding the ORBIT Act, IB Docket No. 04-158

Dear Ms. Dortch.

SES AMERICOM, Inc ("SES AMERICOM") submits this letter in response to Reply Comments filed by Inmarsat Ventures Limited ("Inmarsat") on May 14, 2004, in the above referenced proceeding.¹ Although the deadline prescribed by public notice for filing comments in this proceeding has expired, SES AMERICOM requests leave to supplement the record in order to address an important matter that was raised for the first time in Inmarsat's Reply Comments.²

¹ Inmarsat Ventures, Ltd., *Reply of Inmarsat Ventures Limited*, IB Docket No. 04-158 (the "Reply Comments")

² See Public Notice, DA 04-1087 (Apr. 23, 2004)

In its Reply Comments, Inmarsat attached a May 6, 2004, letter from Senator John Breaux in which the Senator expressed his view that Inmarsat has satisfied the “purpose” and “goals” of the ORBIT Act by effectuating a private equity placement and a quasi-public debt offering in lieu of the equity IPO that is required by Section 621 of the Act.³ Inmarsat, in turn, cited Senator Breaux’s letter, along with similarly worded letters written by both the National Telecommunications and Information Administration (“NTIA”)⁴ and Senator Conrad Burns,⁵ as evidence that Inmarsat has complied with the text of the ORBIT Act.⁶

In weighing Inmarsat’s compliance with the ORBIT Act, the Federal Communications Commission (the “Commission”) should not be distracted by the recent Inmarsat letters. These letters are a transparent attempt by Inmarsat to alter the legislative history of the ORBIT Act -- years after its enactment -- by aggressively lobbying both Members of Congress and the Bush Administration. Indeed, the views expressed in these letters are reflected nowhere in the actual and contemporaneous legislative history of the ORBIT Act, which indicates only that Congress intended for Inmarsat to satisfy Section 621 by conducting an IPO of equity securities.⁷

Moreover, even if the Commission considers the letters, the Commission should be mindful that these letters stop short of opining that Inmarsat has complied with the text of the ORBIT Act; instead, these letters merely provide that Inmarsat has satisfied certain “goals” or “policy objectives” or “purposes” of the Act.⁸ There is a fundamental difference between alleging that Inmarsat has satisfied certain “goals” of the ORBIT Act, and concluding that Inmarsat has actually complied with the Act by satisfying these goals in the manner prescribed by Congress. Because these letters did not, and could not, include a statement of Inmarsat’s compliance, they offer no useful support for Inmarsat’s arguments. If anything, the cautious wording of these letters

³ See Reply Comments at Exhibit A (the “Breaux Letter”).

⁴ Letter from Michael D. Gallagher, Acting Assistant Secretary for Communications and Information, NTIA, to Senator Conrad Burns (Mar. 16, 2004) (attached as Tab A to Inmarsat Ventures Limited, *Consolidated Response of Inmarsat*, File No. SAT-MS-20040210-00027 (filed Apr. 20, 2004) (the “Response”)) (the “NTIA Letter”).

⁵ Letter from Senator Conrad Burns to Michael D. Gallagher, Acting Assistant Secretary for Communications and Information, NTIA (Jan. 21, 2004) (attached as Tab B to the Response) (the “Burns Letter”).

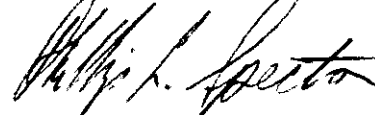
⁶ See Reply Comments at 6, 10.

⁷ See Senate Committee on Commerce, Science, and Transportation, Sen. Rep. No. 106-100, at 6 (Jun. 30, 1999) (In describing the privatization process for INTELSAT – which is subjected to substantially the same IPO requirements as Inmarsat – the Committee noted that the President will seek to ensure that an “initial public offering of *stock* of the privatized INTELSAT entity occurs in a timely fashion.” The Report further states that the Committee “intends to allow INTELSAT to proceed with a *public stock offering* in a manner consistent with normal business considerations”) (emphasis added).

⁸ See Breaux Letter at 1, Burns Letter at 1, NTIA Letter at 1-2.

serves to underscore SES AMERICOM's position that Inmarsat has failed to fulfill its obligations under Section 621.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip L. Spector". The signature is fluid and cursive, with the first name "Philip" and last name "Spector" clearly distinguishable.

Philip L. Spector
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Attorneys for SES AMERICOM, Inc.

cc: Parties on attached service list

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May 2004, I caused a copy of the foregoing letter to be served by first-class mail on the following:

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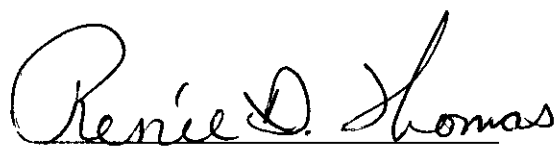
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